



(Billing Code 7510-13)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1845

NASA Federal Acquisition Regulation Supplement: Removal of Use of Government property for commercial work

RIN 2700-AE59

[NFS Case 2020-N016]

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is issuing a final rule to amend the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) to remove the sections governing "Use of Government property for commercial work" from NFS as this only affects the internal Agency administrative procedures and has no cost or administrative impact on contractors or prospective contractors.

DATES: This final rule is effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments due on or before **(INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Teresa Anthony, NASA Headquarters, Office of Procurement, Procurement Management and Policy Division, 300 E. Street SW, Washington, DC 20456-0001. Telephone 202-358-0104.

SUPPLEMENTARY INFORMATION:

I. Background

NFS Part 1845.301-71 Use of Government property for commercial work, contains procedures and criteria related to the approval of non-government use of NASA equipment on commercial contracts that affect only the internal Agency administrative procedures and have no cost or administrative impact on contractors or prospective contractors. Pursuant to Executive Order 13563, Improving Regulation and Regulatory Review, and Executive Order 13777, Enforcing the Regulatory Reform Agenda, NASA is continually reviewing existing regulations with the objective of reducing or removing any unnecessary, outdated and burdensome requirements that have outlived their intended purpose. Because the 1845.301-71 affect only the internal Agency administrative procedures it can be removed from the regulatory section of the NFS.

NASA does not anticipate opposition to the changes or significant adverse comments. However, if the Agency receives significant adverse comment, it will withdraw this final rule by publishing a notice in the Federal Register. A significant adverse comment is one that explains: (1) Why the final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the final rule will be ineffective or unacceptable without change. In determining

whether a comment necessitates withdrawal of this final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

II. Publication of this final rule for public comment is not required by statute

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation (FAR). Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment because it makes non-substantive changes to Agency regulations that has no impact on contractors or prospective offerors as the definitions being removed affect only the internal Agency administrative procedures.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select

regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Executive Order 13371

This rule is not subject to Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant NFS revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 and therefore does not require publication for public comment.

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of

Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 1845

Government procurement.

Geoffrey Sage

NASA FAR Supplement Manager.

Accordingly, 48 CFR part 1845 is amended as follows:

PART 1845-GOVERNMENT PROPERTY

1. The authority citation for part 1845 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

1845.301-71 [Removed]

2. Remove section 1845.301-71.

